



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

APR 4 2011

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

LaDonna Driver  
Hodge Dwyer & Driver  
3150 Roland Avenue  
Post Office Box 5776  
Springfield, Illinois 62705-5776

Re: *Copy of Executed Administrative Consent Order to Prairie Power Inc.*

Dear Ms. Driver:

Enclosed please find one copy of the Administrative Consent Order (ACO), executed by the Respondents and the U.S. Environmental Protection Agency, Region 5 (EPA) resolving the above-referenced matter.

Thank you for your cooperation in resolving this matter and if you have any questions concerning this ACO or the proposed resolution of this matter please feel free to call me at (312) 886-6812.

Sincerely,

A handwritten signature in black ink, which appears to read "Brent Marable", is written over a printed name.

Brent Marable  
Chief, Air Enforcement and Compliance  
Assurance Section (Illinois/Indiana)

Enclosures

**IN THE MATTER OF:**

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**Proceeding Under Sections 113(a)(1), (a)(3),  
and 114(a)(1) of the Clean Air Act 42 U.S.C.  
§§ 7413(a)(1) (a)(3), and 7414(a)(1)**

3. The PSD program, at 40 C.F.R. § 52.21, prohibits a major stationary source from constructing a major modification without, in part, first obtaining a PSD permit and applying Best Available Control Technology (BACT).

4. Each state must submit to the Administrator of EPA a plan for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the Act, 42 U.S.C. § 7410.

5. On August 7, 1980, EPA incorporated the provisions of 40 C.F.R. § 52.21(b) through (w) into the Illinois State Implementation Plan (SIP). 40 C.F.R. § 52.738 (45 *Fed. Reg.* 52741, as amended at 46 *Fed. Reg.* 9584).

6. On August 7, 1980, EPA also delegated to the Illinois Environmental Protection Agency (IEPA or State) authority to review and process PSD permit applications and to implement the PSD program. 46 *Fed. Reg.* 9584.

7. The Administrator of EPA may require any person who owns or operates an emission source to make reports, install, use, and maintain monitoring equipment, sample emissions, and provide information required by the Administrator under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). The Administrator has delegated this authority to the Director of the Air and Radiation Division.

### **Findings**

8. PPI owns and operates a 22-megawatt coal-fired steam generating station at 13476 State Highway 100, Pearl, Illinois 62361 (Pearl Generating Station). The Pearl Generating Station includes one 22-megawatt boiler designated as Unit 1.

9. PPI constructed a major modification resulting in net significant emission increases of SO<sub>2</sub>, NO<sub>x</sub> and/or PM at the Pearl Generating Station. PPI is subject to 40 C.F.R. § 52.21 as incorporated into the Illinois SIP for constructing a major modification without first obtaining a PSD permit and applying BACT.

10. PPI owns or operates an "emission source" within the meaning of Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). Therefore, PPI is subject to the requirements of Section 114(a)(1).

11. On January 3, 2011, and again on March 4, 2011, EPA notified PPI of its violation of the Act, alleging that PPI violated 40 C.F.R. § 52.21 as incorporated into the Illinois SIP for failure to obtain a PSD permit and apply BACT prior to commencing construction of a major modification at the Pearl Generating Plant:

12. On January 3, 2011, representatives of PPI and EPA initiated discussions of the alleged violation and the potential for resolution.

13. PPI violated 40 C.F.R. § 52.21 as incorporated into the Illinois SIP when it constructed a major modification at the Pearl Generating Plant without first obtaining a PSD permit and applying BACT.

### **COMPLIANCE PROGRAM**

#### **I. Title V Permit Requirements**

14. PPI must within 30-calendar days of the effective date of this ACO apply to IEPA for a minor modification of its Pearl Generating Station Clean Air Act Permit Program Permit (Title V Permit) J.D. No. 149817AAB and supplement the pending application for renewal of the Title V Permit, to incorporate a Schedule of Compliance that includes the conditions provided in Paragraphs 15 through 21 below:

#### **A. Retirement or Conversion of Unit 1**

15. By no later than March 31, 2013, PPI will elect to either permanently retire Unit 1 at Pearl Generating Station by December 31, 2013 or convert Unit 1 at Pearl Generating Station to

combust 100% biomass fuels.

16. Whether PPI elects to permanently retire Unit 1 or convert Unit 1 to combust 100% biomass fuels, by no later than January 1, 2012, and continuing thereafter, until Unit 1 is retired or repowered and operating on 100% biomass, Unit 1 will not exceed an annual NO<sub>x</sub> tonnage limit of 350 tons per year and an annual SO<sub>2</sub> tonnage limit of 1,500 tons per year as determined on a 12-month rolling average basis. If PPI elects to convert Unit 1 to combust 100% biomass and does not begin to combust 100% biomass by December 31, 2014, then by no later than December 31, 2014, and continuing thereafter, PPI will permanently cease combusting any coal or coal-derived fuels at Unit 1.

17. If PPI elects to permanently retire Unit 1 at Pearl Generating Station, then by no later than December 31, 2013, PPI shall permanently shut down and cease to operate the Pearl Generating Station as a coal-fired steam and/or electric generation plant, rendering the Pearl Generating Station physically incapable of combusting coal and operating as a coal-fired electric generation plant and relinquishing all Clean Air Act permits for the Pearl Generating Station.

18. If PPI elects to convert Unit 1 at Pearl Generating Station to biomass, then by no later than June 30, 2013, PPI must submit applications for all required applicable permits, including a PSD construction permit, to convert and operate Unit 1 to combust 100% biomass. If PPI decides to not convert Unit 1 to combust 100% biomass after the PSD permit application is submitted, PPI will notify EPA and IEPA within seven days and permanently retire Unit 1 within 30 days of such decision. In no event shall Unit 1 combust any coal or coal-derived fuel after December 31, 2014, as specified in paragraph 16, above.

19. The term "biomass fuels" shall mean a blend of renewable feedstock consisting solely of: wood (including residues from harvesting or processing such as bark, leaves, wood

chips, sawdust, and byproducts from paper manufacturing, but solely if the manufacturing process does not use any chlorinated compounds for bleaching), agricultural crops, grasses, dedicated energy crops (including, but not limited to, trees, crops, grasses, and shrubs), other vegetation waste or products (including, but not limited to, landscape or right-of-way trimmings, algae, food waste and by-products), including up to five percent (5%) binding materials or additives that have demonstrated emission reduction properties and/or other biomass fuels proposed by PPI and approved by the EPA prior to use, but in no event shall biomass fuels include animal wastes, construction debris, or non-natural wood such as plywood, pressure-treated wood and the like.

**B. Prohibition on Netting Credits**

20. Reductions in emissions of SO<sub>2</sub>, NO<sub>x</sub>, and PM that result from the actions outlined in paragraphs 15 to 18, above at Pearl Generating Station Unit 1 shall not be considered as a creditable contemporaneous emission decrease for the purpose of obtaining a netting credit or offset under the Clean Air Act's Nonattainment New Source Review and PSD programs.

21. Nothing in this ACO is intended to preclude the emission reductions generated under this ACO from being considered by the State or EPA as creditable contemporaneous emission decreases for the purpose of attainment demonstrations submitted pursuant to Section 110 of the Act, 42 U.S.C. § 7410, or in determining impacts on National Ambient Air Quality Standards, PSD increment, or air quality related values, including visibility, in a Class I area.

**ENVIRONMENTALLY BENEFICIAL ACTIONS AGREED TO BY PPI**

22. Within one year of the effective date of this ACO, PPI will enter into a binding Power Purchase Agreement with providers of wind energy for the purchase of at least 20

megawatts of electric generating capacity of wind, in Illinois, for at least 18 years, commencing no later than August 1, 2013. If any delay in implementation of the wind generation occurs, or is projected to occur, PPI will notify EPA within seven days of PPI becoming aware of such delay.

Within 30 days of PPI becoming aware of such delay, PPI will submit to EPA a plan for assuring compliance with this provision as expeditiously as possible.

### **PERIODIC REPORTING**

23. After the effective date of this ACO, PPI must submit semi-annual reports to EPA within sixty (60) days after the end of each half of the calendar year (January through June and July through December). The reports shall include information on PPI's compliance status with the following requirements:

- a. application for modification of the Pearl Generating Station Illinois Title V permit under paragraph 14, above;
- b. retirement or repowering to combust 100% biomass of Pearl Generating Station under paragraphs 15 through 19, above;
- c. prohibition on use of netting credits under paragraphs 20 and 21; and
- d. implementation of environmentally beneficial actions, including annual megawatt hour generation under paragraph 22.

Semi-annual reporting shall terminate after providing annual megawatt hours for 3 years of wind generation.

24. PPI must send all reports required by this Order to:

Attention: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
U.S. EPA, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

25. All reports that Respondent must submit to comply with this Agreement shall include the following statement and certification:

*I certify under penalty of law that the information contained in this submittal to EPA is accurate, true, and complete. I understand that there are significant civil and criminal penalties for making false or misleading statements to the United States government.*

The above statement shall be signed by a responsible official for the Respondent (i.e., the owner if Respondent is a sole proprietorship, the managing partner if Respondent is a partnership, or a responsible corporate official if Respondent is an incorporated entity).

#### **General Provisions**

26. This Order does not affect PPI's responsibility to comply with other federal, state, and local laws, including but not limited to regulations for PSD, 40 C.F.R. § 52.21, National Emission Standards for Hazardous Air Pollutants, 40 C.F.R. Part 63, and New Source Performance Standards, 40 C.F.R. Part 60.

27. This Order does not restrict EPA's authority to enforce the Illinois SIP, 40 C.F.R. § 52.21, and Section 165 of the Act, or any other section of the Act.

28. Failure to comply with this Order may subject PPI to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

29. The terms of this Order are binding on PPI, its assignees and successors. PPI must



give notice of this Order to any successors in interest prior to transferring ownership and must simultaneously verify to EPA, at the above address, that it has given the notice.

30. PPI may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If PPI fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.

31. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 *et seq.*, because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic record keeping efforts, please provide your response to this Order without staples. Paper clips and binder clips are acceptable.

32. EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.

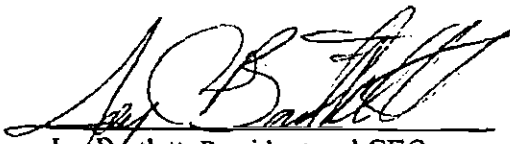
33. Without admission of any fact or liability, and for purposes of resolving disputed claims, PPI agrees to the terms of this Order.

34. Obtaining and continuously complying with the Title V permit minor modification or Title V Permit renewal incorporating a compliance schedule that includes the requirements in paragraphs 15 through 19, as required pursuant to paragraph 14, above, will bring PPI into compliance with 40 C.F.R. § 52.21 as incorporated into the Illinois SIP with respect to major

modifications resulting in emission increases of SO<sub>2</sub>, NO<sub>x</sub>, and PM undertaken at the Pearl Generating Station prior to the effective date of this ACO.

35. This Order is effective on the date of signature by the Director of the Air and Radiation Division. Except for the reporting requirements in paragraph 23 through 25, above, this Order will terminate one year from the effective date.

April 4, 2011  
Date

  
Jay Bartlett, President and CEO  
Prairie Power, Inc.

4/4/11  
Date

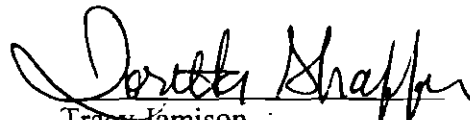
  
Cheryl Newton, Director  
Air and Radiation Division

CERTIFICATE OF MAILING

I, Tracy Jamison, certify that I sent the Administrative Consent Order, EPA Order No. EPA-5-11-113(a)-IL-07, and Prairie Power Inc., and EPA Memorandum of Understanding by Certified Mail, Return Receipt Requested, to:

I also certify that I sent a copy of the Administrative Consent Order, EPA Order No. [number], and Prairie Power Inc., and EPA Memorandum of Understanding by First Class Mail to:

on the 5 day of April 2011.



Tracy Jamison  
Office Automation Assistant  
AECAS/PAS

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 0192 0195